IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE ELEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 14091 of 2004

Between:

S. Krishna Rao S/o S. Rama Rao, Occ: Special Class Contractor
Thungaturthy Village & mandal Nalgonda District

..... PETITIONER

AND

1. The Government of A.P., rep by Principal Secretary,
R&B, Secretariat, Hyderabad
2 The Chief Engineer, Roads & Buildings (NABARD) Erramanzil,
Hyderabad
3 The Superintending Engineer (R&B) Circle, Nalgonda
4 The Executive Engineer (R&B) Division, Nalgonda
5 Pay & Accounts Officer, G.V. Gudem, Nalgonda

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or Writ, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in deducting the seigniorage charges for excavating ordinary earth from out of the bills payable to the petitioner for executing the contract work covered under Agreement NO. 30/2001-2002, dt 19-10-2001 executed by the 3rd respondent in favour of the petitioner as illegal, arbitrary unjust and without jurisdiction and consequently direct the respondents to refund the seigniorage charges that were deducted from the bills of the petitioner for ordinary earth, to the petitioner forthwith

Counsel for the Petitioner: MR.V.SUDHAKAR REDDY

Counsel for the Respondents.: GP FOR ROADS & BUILDINGS

The Court at the admission stage made the following ORDER:

The petitioner is a Special Class Contractor. He entered into an agreement with the respondents for execution of the road work in Nalgonda District. The agreement provides for deduction of various taxes and seigniorage charges. The petitioner contends that there is no condition in the agreement for recovery of seigniorage charges for excavation of ordinary earth.

The grievance of the petitioner is that though there is no agreement between the parties for recovery of seigniorage charges for excavation of ordinary earth, the respondents deducted Rs.3,26,258/- towards seigniorage charges for digging ordinary earth. The petitioner, therefore, requests this Court to quash the order of recovery and direct the respondents to pay the said amount, which was deducted towards the seigniorage charges for excavation of ordinary earth.

The learned counsel for the petitioner brought to the notice of this Court a judgment of a Division Bench in W.P.No.23730 of 2003 rendered by this Court on 17.11.2003 wherein the Division Bench declared that the respondent shall not collect any seigniorage charges from the petitioner for digging ordinary earth in respect of execution of the work being executed by the petitioner as per the agreement entered into.

In the light of the above judgment and in the absence of any condition in the agreement for recovery of seigniorage charges for excavation of ordinary earth, the respondents are not entitled to recover the said amount.

The writ petition is accordingly allowed. The recovery of the amount towards the seigniorage charges for the excavation of the

ordinary earth in the absence of any condition in the agreement is bad. The

respondents shall make necessary arrangement for payment of the said amount within a period of four weeks from the date of receipt of a copy of this order after satisfying that there is no condition in the agreement for recovery of the seigniorage charges for ordinary earth.

11.08.2004

Note: Furnish CC by tomorrow

B/o

va

To
1 The Principal Secretary, Government of A.P.,
R&B, Secretariat, Hyderabad
2 The Chief Engineer, Roads & Buildings (NABARD) Erramanzil,
Hyderabad
3 The Superintending Engineer (R&B) Circle, Nalgonda
4 The Executive Engineer (R&B) Division, Nalgonda
5 Pay & Accounts Officer, G.V. Gudem, Nalgonda
6 Two CCs to G.P. For Roads and Buildings, High Court of A.P.
Buildings, Hyderabad (OUT)
7 Two CD Copies